IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 10770 of 2005

Between:

Toddy Cooperative Society, Toddy Group-VIII of Karimnagar Town at Karimnagar rep., by its President, Ullila Madhu, s/o Bhoomaiah,

..... PETITIONER

AND

1 The Commissioner of Prohibition & Excise, Govt. of A.P., Opposite to

Exhibition Grounds, J.N.Road, Nampally, Hyderabad.
2 The Deputy Commissioner of Prohibition & Excise, Karimnagar Division at

Karimnagar.
3 The Superintendent of Prohibition & Excise, Karimnagar District at

Karimnagar.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the proceedings of the 3rd respondent vide proceedings Rc.No.1605/2004/P&Ex./A11, dt.23-10-2004 and 30-11-2004 as illegal in respect of Toddy Group-VIII Shop No.1 and 2 bearing licences 34 and 35 valid upto 31-03-2007 in pursuance of the second sample bottle report received from the independent lab vide Rc.No.2414/SFL/2004, dated 27-12-2004 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.B.SAI RAM GOUD

Counsel for the Respondent No.: GP FOR PROHIBITION & EXCISE

The Court made the following :

O R D E R:

The writ petition is filed under Article 226 of the Constitution of India seeking a writ of Mandamus declaring the action of the 3rd respondent-Superintendent of Prohibition & Excise, Karimnagar in issuing proceedings as illegal and arbitrary.

Petitioner is a Toddy Co-operative Society. It is stated that on 16-10-2004 the Excise State Task Force registered a case of adulteration against the petitioner-society alleging that on inspection of the shop No.2 of Housing Board Colony, they found certain contraventions of the Provisions of the A.P.Excise Act & Rules. Thereafter, the Excise State Task Force, instructed the Station House Officer, Karimnagar to register a case against the petitioner-society. The Station House Officer, in turn, registered a case in crime Pr.No.281/04-05 dated 16-10-2004 and issued the impugned show cause notice. The petitioner society submitted the explanation to the show cause notice and requested the 3rd respondent-Superintendent of Prohibition & Excise, to drop all further proceedings against the society. But the 3rd respondent without considering the explanation to the show cause notice and without giving opportunity to the petitioner society cancelled the licence in respect of shop Nos.1 and 2. Questioning the impugned proceedings, the petitioner society preferred an appeal before the 2nd respondent-Deputy Commissioner of Prohibition & Excise. In the meantime, the 2nd respondent cancelled the licence of the society. Again questioning the impugned proceedings of the 2nd respondent, the petitioner society preferred an appeal dated 26-04-2005 before the 1st respondent-Commissioner of Prohibition & Excise, and the same is pending. The grievance of the petitioner is that the 1st respondent did not pass any orders on the appeal dated 26-04-2005 so far. Hence the present writ petition has been filed.

Since the statutory appeal preferred by the petitioner society against the impugned order of suspension is pending before the 1st respondent-Commissioner of Prohibition & Excise, I am not inclined to express any opinion on the merits of the case. Instead, I deem it appropriate to dispose of the writ petition with a direction to the 1st respondent-Commissioner of Prohibition & Excise, Hyderabad, to consider

the appeal dated 26-04-2005 and to pass appropriate orders in accordance with law as expeditiously as possible preferably within a period of four weeks from the date of receipt of a copy of the order.

With the above direction, the writ petition is disposed of. No costs.

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29-04-2005

Mjl/*

To,

1 The Commissioner of Prohibition & Excise, Govt. of A.P., Opposite to Exhibition Grounds, J.N.Road, Nampally, Hyderabad.

2 The Deputy Commissioner of Prohibition & Excise, Karimnagar Division at Karimnagar.

3 The Superintendent of Prohibition & Excise, Karimnagar District at Karimnagar.

4. 2 CCs to G.P. for Prohibition & Excise, High Court Buildings, Hyderabad.

5. 2 CD copies.